

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Cleveland A. Curry,)	Civil Action No.: 9:14-3883-BHH
)	
Plaintiff,)	
)	
v.)	<u>OPINION AND ORDER</u>
)	
Carolyn W. Colvin,)	
Acting Commissioner of Social Security,)	
)	
Defendant.)	
_____)	

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Bristow Marchant, made in accordance with 28 U.S.C. 636(b)(1)(B) and Local Civil Rule 73.02 for the District of South Carolina. Plaintiff Cleveland A. Curry (“Plaintiff”), brought this action seeking judicial review of the final decision of the Commissioner of Social Security (“Commissioner”) denying his claim for Disability Insurance Benefits (“DIB”).

On November 12, 2015, the Magistrate Judge issued a Report and Recommendation in which he recommended that the Commissioner’s decision be reversed pursuant to sentence four of 42 U.S.C. § 405(g) and that the case be remanded to the Commissioner for a proper evaluation and consideration of Plaintiff’s need to use a cane, and for such further administrative action as may be necessary and appropriate. (ECF No. 22.) On December 3, 2015, the Commissioner filed “Defendant’s Notice of Not Filing Objections to the Report and Recommendation of the Magistrate Judge.” (ECF No. 24.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court

is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to him with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir.2005).

The Court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The Court adopts the Report and Recommendation and incorporates it herein by reference. The decision of the Commissioner to deny benefits is **reversed** and the action is **remanded** for further administrative action consistent with this order and the Report and Recommendation.

IT IS SO ORDERED.

/s/ Bruce Howe Hendricks
United States District Judge

December 4, 2015
Greenville, South Carolina